

MURMUR
CORPORATION

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 MAR -7 AM 9:47

05 March 2008

Office of the Chief Clerk, **CHIEF CLERKS OFFICE**
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX. 78711-3087

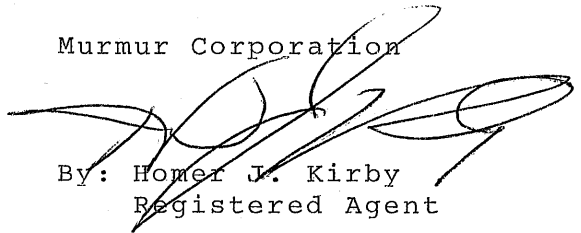
Re: TCEQ Docket No. 2006-0560-PST-E
SOAH Docket No. 582-07-3620

Respondent is not knowledgeable as to TCEQ or SOAH procedures and protocols, but hereby files this PROTEST and EXCEPTION to the above-referenced Proposed Decision and Modified Order contained in the TCEQ letter dated February 26, 2008.

- 1) Respondent was to have a hearing before the Commission (with some members already familiar with this matter), but such was unilaterally changed to an alleged hearing before SOAH.
- 2) The alleged Notice of Reconvened Hearing dated 10/21/07 was never received by Respondent who has not yet been granted an opportunity to defend before TCEQ or an ALJ.
- 3) By letter to TCEQ dated 9/01/06 Respondent evidenced (by TCEQ's own criteria and policy) its "financial inability" to remove USTs and pay any penalty.
- 4) During the past twenty-year Superfund Remediation Project (the rather infamous "West Dallas Lead Smelter", remediation of which was a single project to be completed in phases and comprised three tracts totaling 26 acres of land, buildings, equipments and USTs), Respondent did not install, nor ever use, nor have the resources to properly remove the USTs and therefore could not have received any "economic benefit" of \$6,985. as TCEQ has alleged.
- 5) Respondent is persuaded that the Agreed Final Judgment of 1988 bars any further penalty and the penalty payment of \$100,000. to the State of Texas during August 2007 (which may not have been recorded) constitutes a complete and effective bar to the proposed penalty claim of \$5,250.

Respondent continues to seek proper resolution of this dispute.

Murmur Corporation


By: Homer J. Kirby
Registered Agent

Copy: Judge Carol Wood
Les Trobman
Blas Coy, Jr.
Lena Roberts